

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R9-31-303	Amend
Article 4	New Section
R9-31-401	New Section
R9-31-402	New Section
R9-31-403	New Section
R9-31-404	New Section
R9-31-405	New Section
R9-31-406	New Section
R9-31-407	New Section
R9-31-408	New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-2982, 36-2983

Implementing statute: A.R.S. § 36-2982, 36-2983

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 14, A.A.R. 3129, August 1, 2008

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

As a result of Legislation 2007, A.R.S. 36-2982 (I) permits the Administration to implement the Employer Sponsored Insurance Program. The Administration is proposing rule language describing the requirements for this program. It is a voluntary program that will be made available to families of Kids Care eligible children, who have access to employer sponsored health insurance. If the family chooses the ESI program, the Administration will subsidize the ESI premium.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed or relied upon for this rulemaking.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Administration anticipates that there will be a minimal economic impact as a result of the rule changes.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS website [www.azahcccs.gov](http://www.azahcccs.gov) the week of November 10, 2008. Please send written comments to the above address by 5:00 p.m., January 13, 2009. E-mail comments will also be accepted during this timeframe.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: January 13, 2009  
Time: 2:00 p.m.  
Location: AHCCCS  
701 East Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: January 13, 2009  
Time: 2:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr, Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: January 13, 2009  
Time: 2:00 p.m.  
Location: ALTCS: Arizona Long-Term Care System  
3480 East Route 66  
Flagstaff, AZ 86004  
Nature: Public Hearing

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

## TITLE 9. HEALTH SERVICES

### CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

#### CHILDREN'S HEALTH INSURANCE PROGRAM

#### ~~Article~~ ARTICLE 3. ELIGIBILITY AND ENROLLMENT

##### Section

R9-31-303. Eligibility Criteria

#### ~~Article~~ ARTICLE 4. ~~Repealed~~ EMPLOYER SPONSORED INSURANCE SUBSIDY PROGRAM

##### Section

R9-31-401. ~~Repealed~~ Definitions related to the Employer Sponsored Insurance Subsidy Program

R9-31-402. ~~Repealed~~ General Requirements

R9-31-403. ~~Repealed~~ Eligibility Requirements

R9-31-404. ~~Repealed~~ Effective Date

R9-31-405. ~~Repealed~~ Member Responsibilities

R9-31-406. ~~Repealed~~ Employer Responsibilities

R9-31-407. ~~Repealed~~ Premiums and ESI Subsidy Payments

R9-31-408. Hearing Rights and Continuation of Benefits for the ESI Program

#### ARTICLE 3. ELIGIBILITY AND ENROLLMENT

##### **R9-31-303. Eligibility Criteria**

Eligibility. To be eligible for the program, an applicant shall meet all the following eligibility requirements:

1. Age. Is less than 19 years of age. A child's coverage shall continue through the month in which a child turns age 19 if the child is otherwise eligible;
2. Citizenship. Is a United States citizen or a qualified alien under A.R.S. § 36-2983;
3. Residency. Is a resident of the state of Arizona under A.R.S. § 36-2983. An Arizona resident is a person who currently lives in Arizona and intends to remain in Arizona indefinitely;
4. Income. Meets the income requirements in R9-31-304;

5. Cost sharing. Pays the cost sharing premium amount when premiums are required as specified in A.R.S. §§ 36-2982 and 36-2903.01;
6. Social security number (SSN). Provides a SSN or applies for a SSN within 30 days after submitting an application.
7. Assignment. Assigns rights to any first- or third-party coverage of medical care as specified in 9 A.A.C. 31, Article 10;
8. Other federal program. Is not eligible for Medicaid or other federally operated or financed health care insurance program, except the Indian Health Service as specified in A.R.S. § 36-2983;
9. Inmate of a public institution. Is not an inmate of a public institution, as specified in A.R.S. § 36-2983;
10. Patient in an institution for mental disease. Is not a patient in an institution for mental disease at the time of application, or at the time of redetermination, as specified in A.R.S. § 36-2983;
11. Other health coverage. Is not covered under:
  - a. An employer's group health insurance plan,
  - b. Family or individual health insurance, or
  - c. Other health insurance;
12. State health benefits. Is not a member of a family that is eligible for health benefits coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona;
13. Prior health insurance coverage. Has not been covered by health insurance during the previous three months unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason as specified in A.R.S. § 36-2983. The three months of ineligibility due to previous insurance coverage shall not apply to:
  - a. A newborn as defined in R9-31-309;
  - b. A Title XIX member as specified in 9 A.A.C. 22, Article 1;
  - c. An applicant who is seriously ill under R9-31-101 or chronically ill under A.R.S. § 36-2983;
  - d. A member under this Article who loses insurance coverage;
  - e. A CRS member;~~or~~
  - f. A Native American member receiving services from IHS or a Tribal Facility;~~;~~ or
  - g. A member whose previous coverage was the Employer Sponsored Insurance Program.

**Article ~~ARTICLE~~ 4. Repealed ~~EMPLOYER SPONSORED INSURANCE SUBSIDY PROGRAM~~**

**R9-31-401. Repealed ~~Definitions related to the Employer Sponsored Insurance Subsidy Program~~**

Definitions. The words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

“Employer Sponsored Insurance” or “ESI” means health insurance offered by an employer.

“Employer Sponsored Insurance Program” or “ESI Program” means a program where the parent of a Kids Care eligible child may obtain employer sponsored health insurance by choosing coverage for their child under the employer sponsored insurance and have the premium subsidized by this program.

“Employee premium” means a monthly amount the employee is charged by the employer for the employer sponsored insurance.

“Qualifying Employer” means an employer that has a commercial group package that provides, at a minimum, the required scope of services under R9-31-403 and contributes at least 30% of the total health insurance premium for the household and confirms with AHCCCS the ESI member’s enrollment and premium deductions each quarter.

“Subsidy payment” means a payment made by the Administration to the household of the eligible child.

**R9-31-402. Repealed ~~General Requirements~~**

**A.** The Administration shall administer the Employer Sponsored Insurance Program under A.R.S. §§ 36-2982 and 36-2983.

**B.** For households participating in the ESI program, including households with Native American children, the Administration is not responsible for covering services described under R9-31-403, coinsurance, deductibles, or any portion of the employee premium that exceeds the subsidy payment.

**C.** Participation in the ESI program is voluntary.

**R9-31-403. Repealed ~~Eligibility Requirements~~**

**A.** Eligibility Criteria.

1. The household shall include at least one child determined eligible for Kids Care.
2. The qualifying household’s employer health insurance shall meet the following requirements:
  - a. Provide the qualifying household at least the following services:

- i. Inpatient hospital services
- ii. Outpatient services
- iii. Physician's surgical and medical services
- iv. Laboratory and X-ray services
- v. Pharmacy services
- vi. Well baby/well child visits and immunizations; and
- vii. Behavioral health services
- b. The employer's plan is not required to offer all of the services covered by AHCCCS. Restrictions or limitations on the amount, duration or scope of services, may be greater or less than those imposed by AHCCCS. Coverage of dental, vision and non-emergency transportation are not required.
- 3. The parents of the eligible child shall accept the subsidy payments by direct deposit into a bank account.
- 4. Comply with the requirements as described under R9-31-406.

**B. Eligibility Determination.**

- 1. The household shall provide the necessary information to make an ESI program eligibility determination.
- 2. The Administration shall make an eligibility determination within 45 days from the date the necessary information was received, except when:
  - a. The agency cannot reach a decision because the applicant delays or fails to take a required action, or
  - b. There is an administrative or other emergency beyond the agency's control.
- 3. The Administration shall not use the time to determine eligibility as a waiting period before determining eligibility; or as a reason for denying eligibility when a determination has not been made within the time standards.

**C. ESI Renewals.**

- 1. Renewals shall be completed at least annually to see if the family still qualifies for Kids Care and the ESI subsidy payment. The ESI renewal process will be scheduled to coincide with the employer's open enrollment period.
- 2. Renewal application forms will be sent to ESI Program participants at least 60 days before the employer's open enrollment date. If the participant continues to qualify for Kids Care, the family will have the option to:

- a. Remain enrolled with ESI, provided the employer and the employer's insurance meet the program requirements; or
- b. Transition back to Kids Care and an AHCCCS health plan.
- 3. If the member does not return the necessary information to determine eligibility the member will be ineligible for the ESI Program.
- 4. When a renewal application is processed and the member is found ineligible for Kids Care the subsidy payment will stop.
- D.** An ESI Program member's eligibility will not discontinue when a member reports a change that makes the qualified child ineligible for Kids Care. The reported change in circumstances will not affect their ESI eligibility until the child's renewal determination.

**R9-31-404. ~~Repealed~~ Effective Date**

Effective Date.

- 1. Effective dates are prospective, the 1<sup>st</sup> of the month following the determination of eligibility.
- 2. When the child is eligible for Kids Care and the parent has decided to enroll in the ESI program, an ESI Specialist will coordinate the ESI effective date, and send the parent an Approval Notice.
- 3. Once the eligibility is effective, the member shall remain in the ESI program until the employer's next open enrollment period, unless:
  - a. AHCCCS does not receive the employer's quarterly verification for the member;
  - b. The employer reports that the employer sponsored insurance no longer exists or is no longer available to the member;
  - c. The customer is eligible and chooses coverage under Medicaid or Kids Care; or
  - d. The customer dies or moves out-of-state.
  - e. The customer fails to comply with R9-31-405.

**R9-31-405. ~~Repealed~~ Member Responsibilities**

Participating members shall report within 10 days of when the change occurs for any of the following changes:

- 1. The employer's health insurance stops covering any of the services under R9-31-403 (A)(3)(a).
- 2. The health insurance premium amount.
- 3. The employee changes jobs.



5. An eligible child is no longer insured by the employer, and
6. Bank account information where the subsidy payments are deposited.

**R9-31-406. Repealed Employer Responsibilities**

The qualifying employer shall:

1. Provide the ESI Program the required information.
2. Report to AHCCCS each quarter to confirm:
  - a. The ESI child is still enrolled in the employer's health insurance;
  - b. The premium is still being deducted by the employer;
  - c. The amount of the employer's and employee's share of the health insurance premium; and
  - d. The employer's health insurance still covers the required services.
3. Contribute at least 30% of the total health insurance premium.

**R9-31-407. Repealed Premiums and ESI Subsidy Payments**

- A. The subsidy payment shall be \$100 per month per eligible child, and shall not exceed the cost of the employee's share of the health insurance premium.
- B. The subsidy payment is made monthly.
- C. Any unpaid Kids Care premiums described under R9-31-1402 will be deducted from the subsidy payment.

**R9-31-408. Hearing Rights and Continuation of Benefits for the ESI Program**

Hearing rights for an ESI member's eligibility are described in 9 A.A.C. 34.